

## Interview Summary

Application No.

09/807,462

Applicant(s)

BURNSIDE ET AL.

Examiner

Alysia Berman

Art Unit

1617

All participants (applicant, applicant's representative, PTO personnel):

#12

(1) Alysia Berman.

(3) \_\_\_\_\_.

(2) Tony Zelano.

(4) \_\_\_\_\_.

Date of Interview: 26 August 2002.Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.


Claim(s) discussed: As of record.Identification of prior art discussed: n/a.Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraph rejections were discussed.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

#### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

##### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

##### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

## FACSIMILE

Date: 8/26/02To: Ephraim Berman09 / 807, 462Facsimile No.: 703 746 4977

Telephone No.:

From: Tony Zelano

MILLEN, WHITE, ZELANO &amp; BRANIGAN, P.C.

Arlington Courthouse Plaza I

2200 Clarendon Blvd., Suite 1400

Arlington, VA 22201 (U.S.A.)

(Fax: 703-243-6410)

Writer's Direct Dial: \_\_\_\_\_

Writer's Internet Address: \_\_\_\_\_

RE:

Total No. of Pages: 3; if you do not receive all pages, please call 703-243-6333

MESSAGE, IF ANY:

For discussion -T. HarkerTony Zelano

Information contained in this facsimile communication may contain privileged and confidential information and is intended solely for the use of the addressee listed above. If you are neither the intended recipient nor the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any disclosure, copying or distribution of, or the taking of any action in reliance on the content of this communication, is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone on (703) 243-6333.

Received from &lt;7032436410&gt; at 8/26/02 8:01:13 PM [Eastern Daylight Time] at cost. Thank you.

QA's para. 4 rejection

19. (Amended) [A] An orally administrable pharmaceutical composition comprising:

- (a) an immediate release dosage form containing an amount of a mixture of pharmaceutically active amphetamine salts effective to treat ADHD in a human patient; and
- (b) a delayed release dosage form containing an amount effective to treat ADHD in a human patient of a mixture of pharmaceutically active amphetamine salts, wherein [after release of the] said [amphetamines] amphetamine salts are released from the delayed release dose 2 -6 hours after release of said salts from the immediate release dosage form is complete, and wherein the plasma concentration level of the [amphetamines] amphetamine salts reaches a maximum level that is greater than the maximum level of the [amphetamines] amphetamine salt plasma concentration that is reached during the period [prior to] from after onset of said immediate release up to release of said [amphetamines] amphetamine salts from the delayed release dose.

19' (new) An orally administrable pharmaceutical composition comprising:

- (a) an immediate release dosage form containing an amount of a mixture of pharmaceutically active amphetamine salts effective to treat ADHD in a human patient; and
- (b) a delayed release enteric dosage form containing an amount effective to treat ADHD in a human patient of a mixture of pharmaceutically active amphetamine salts, wherein said amphetamine salts are released from the delayed release enteric dose after release of said salts from the immediate release dosage form is complete, and wherein the plasma concentration level of the amphetamine salts reaches a maximum level that is greater than the maximum level of the amphetamine salt plasma concentration that is reached during the period from after onset of said immediate release up to release of said amphetamine salts from the delayed release dose.

QA's para. 5 rejection

30. (Amended) A [process] method for treating ADHD, comprising:  
treating ADHD by orally administering to a [recipient] human patient a pharmaceutical composition comprising a mixture of pharmaceutically active amphetamine salts, said

pharmaceutical composition containing an amount of said amphetamine salts to provide an effective level of the [amphetamines] amphetamine salts in the [recipient] patient to treat ADHD without further administration thereof over the course of eight hours, said pharmaceutical composition releasing said [amphetamines] amphetamine salts from a first dosage form as an immediate release dose which releases said salts upon administration and from a second dosage form as a delayed release dose which releases said salts after said immediate release is complete from said first dosage form.

31. (Amended) The [process] method of claim 30 wherein, [after release of] the [amphetamines] amphetamine salts are released from the delayed release dose 2 -6 hours after release of said salts from the immediate release dosage form is complete, and after said delayed release, the plasma concentration of the [amphetamines] amphetamine salts reaches a maximum level that is greater than the maximum level of the [amphetamines] amphetamine salt plasma concentration that is reached during the period [prior to] from after onset of said immediate release up to release of [amphetamines] amphetamine salts from the delayed release dose.

36. (Amended) A method for treating ADHD, comprising:  
treating ADHD by orally administering to a human patient a pharmaceutical composition comprising a mixture of amphetamine salts, said pharmaceutical composition releasing said [amphetamines] amphetamine salts in a first immediate release dose from a first dosage form and in a second delayed release dose from a second enteric dosage form which releases said salts after release of said immediate dose is complete from said first dosage form, wherein after release of the [amphetamines] amphetamine salts from the delayed release dose, the plasma concentration of the [amphetamines] amphetamine salts reaches a maximum level effective to treat ADHD that is greater than the maximum effective level of the [amphetamines] amphetamine salt plasma concentration that is reached during the period [prior to] from after onset of said immediate release up to release of [amphetamines] amphetamine salts from the delayed release dose.